

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BRIAN NEAL,

Defendant-Appellant.

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UNPUBLISHED

October 28, 2003

No. 240728

Genesee Circuit Court

LC No. 97-001298-FH

Before: Bandstra, P.J., and Hoekstra and Borrello, JJ.

MEMORANDUM.

Defendant pleaded guilty to attempted welfare fraud, MCL 400.60(2); MCL 750.92, and was sentenced to five years' probation. He was later found guilty of violating probation and sentenced to a year in jail. He appeals his sentence as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole claim on appeal is that he is entitled to resentencing because the judge who sentenced him for violation of probation was not the same judge who placed him on probation. Although probation violation proceedings should be held, where possible, before the original judge, reversal is not automatically required where another judge conducts the revocation hearing. *People v McIntosh*, 124 Mich App 705, 708-709; 335 NW2d 129 (1983). Because defendant never objected to the second judge conducting the violation of probation proceedings, either at the arraignment, the violation hearing, or at sentencing, he is not entitled to relief for this unpreserved issue. *Id.* at 709-710. In any event, it appears that defendant has completed his sentence, so the issue is arguably moot. *People v Bailey (On Remand)*, 218 Mich App 645, 648; 554 NW2d 391 (1996); *People v Rutherford*, 208 Mich App 198, 204; 526 NW2d 620 (1994).

Affirmed.

/s/ Richard A. Bandstra

/s/ Joel P. Hoekstra

/s/ Stephen L. Borrello